(7)

IN THE CHHATTISGARH HIGH COURT OF JUDICATURE AT BILASPUR

R.G. TAMBOLI

V/s

CHHATTISGARH STATE

NON RESPONDENT HIMANCHAL PANSARI & OTHERS

REF :1. CASE NO.1697/2000 DT.27-12-2000 AGAINST HIMANCHAL PANSARI & OHTHERS. FILED BY THE CSP KORBA AT DISTRICT COURT KORBA.

2. M.Cr.C.NO.145/2000 & 9/2000 DATED 01.12.2000 ANTICIPATORY BAIL ORDER GUARANTED TO HIMANCHAL PANSARI, SAMAROO LAL,ANUSUIYA, GODAWARI AND SHARAD.

NAME AND ADDRESS (R.G. TAMBOLI, 6/201 BANIYAPARA TAKHATPUR
OF APPLICANT (DISTT.BILAPUR 36 GARH)

"WRIT PETITION"

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

आदेश पत्रक

मामला क्रमांक M.P.No.421 सन् 2001

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	07.01.2004 Shri Ashish Shrivastava, appears as Amicus Curiae on behalf of the Petitioner. Shri Ranbir Singh, Government Advocate for the State. Shri Manoj Paranjpe, counsel for the respondents/accused Himachal Pansari, Samroo Lal Pansari, Anusuiya Pansari, Kum. Godawari Pansari & Sharad Pansari. Heard. The deceased was married to Himachal Pansari on 30.04.1996. The husband and wife lived together for some time. The petitioner is father of deceased Smt. Lata. The petitioner alleged that certain cruelties were committed upon the deceased wife by the husband. Smt. Lata was admitted to the District Hospital, Korba on 14.07.1999. She died on 16.07.1999. It is contended that the information of death was not intimated to the police by the hospital authorities. It is also submitted that even the father & mother and other family members were not informed about the death of Smt. Lata and without informing to the police, the dead body was brought from Korba to Bhatapara for performing last rites. Subsequently, a report was lodged by the petitioner and on the basis of this report the police registered Crime No.31/2000 for	

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

the offence punishable under Section 304-B of I.P.C. After completion of the investigation, charge-sheet has been filed on 26.12.2000 against four accused persons. Learned counsel for the petitioner submits that the Superintendent of Police raised certain queries and they were not replied separately. It is also submitted that the report of chemical analyst is incomplete. In the report the mode of death is shown to be the shock. Petitioner submits that green fluid mentioned in the FSL report has not been shown in the Viscera report by the police. He further submits that a list with documents and letters, which according to the petitioner runs to 371 pages were given to the CSP, Korba (Investigating Officer) but the same were not included in the Charge-sheet. He also submits that the life insurance policy amount in respect of the deceased was encashed and misappropriated by the accused. Notices have been served upon the respondents alongwith the compliant. The respondents have not filed any reply.

The investigation has to be fair. The police had registered offence under Section 304-B and filed the challan in support of the allegations. If the documents are there which the petitioner filed before the C.S.P., Korba, they deserve to be considered especially where there are some letters/documents.

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In such a matter like this, direct evidence is not possible. The facts depends various circumstances.

Shri Manoj Paranjpe, counsel for the respondents / accused persons submitted that so far as the allegations against these accused persons are concerned, as these accused persons have not committed any offence they are ready for any enquiry.

So far as the State is concerned, Shri Ranbir Singh, Government Advocate submits that the documents and the circumstances leading to the incident would be examined by the investigating Agency as directed by this Court. In this connection, section 173(8) Cr.P.C. relevant here and quoted below:

> 173. Report of Police Officer on completion of investigation.—
> (1) xxx xxx xxx
> (2) xxx xxx xxx
> (3) xxx xxx xxx
> (4) xxx xxx xxx
> (5) xxx xxx xxx
> (6) xxx xxx xxx
> (7) xxxx xxx xxx
> *(8) Nothing in this section shall be deemed to preclude further investigation in respect of an offence after a report under sub-s(2) has been forwarded to the Magistrate and whereupon such investigation, the officer in charge of the police station obtains further*

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित — 4 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

evidence, oral or documentary, he shall forward to the Magistrate a further report or reports regarding such evidence in the form prescribed ; and the provisions of sub-ss (2) to (6) shall, as far as may be, apply in relation to such report or reports as they apply in relation to a report forwarded under sub-s (2).

Having considered the facts and circumstances of the case and material on record and without expressing any opinion on the merits of the case, we are of the opinion that it is not a matter where the investigation be handed over to the C.B.I. and the request made by the petitioner to investigate the matter by C.B.I. is rejected. Under the facts and circumstances of the case, it is just and proper if a direction is given to the State to depute an officer not below the rank of Additional Superintendent of Police to entrust the matter. The Additional Superintendent of Police will conduct the further investigation in all respects and the documents/letters, which have been filed in this petition and the queries, which were raised by the Superintendent of Police would also be considered strictly in accordance with law.

Shri Shrivastava submits that the trial is stayed, therefore, the investigation report be submitted as early as possible to expedite the trial. Since the trial is stayed, it is just

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आदेश का दिनांक आदेश क्रमांक सहित	आदेश-हस्ताक्षर सहित — 5 —	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	and proper to direct the investigating officer to submit the report as early as possible preferably within four months and after receipt of the said report, the trial court may proceed further in accordance with law. With the direction aforesaid, this petition finally stands disposed of. Before parting, this Court appreciates the assistance rendered by Shri Shrivastava, who appeared as Amicus Curiae. C.C. as per rules. **Sd/-** **Fakhruddin** **Judge**	**Sd/-** **L.C.BHADOO** **Judge**

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